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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 105 (JMF)

5 JACOB CHAIT,

6 Defendant.

Arraignment

7 -----x

8 New York, New York

9 February 27, 2017

2:25 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: ELIZABETH HANFT

RICHARD UDELL

18 Assistant United States Attorneys

19 MAYLING BLANCO

Attorney for Defendant

20 ALSO PRESENT:

21 DOROTHY MANERA (U.S. Fish and Wildlife Service)

22 LORRAINE GAULI-RUFO, CJA Attorney

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(Case called)

MS. HANFT: Good afternoon, your Honor, Elizabeth Hanft and Richard Udell, for the government. With us at counsel table is Senior Special Agent Dorothy Manera of the Fish and Wildlife Service.

THE COURT: Good afternoon to you.

MS. BLANCO: Good afternoon, your Honor. Mayling Blanco, from the firm of Blank Rome, appearing for the limited purpose of the arraignment only on behalf of our client, Jake Chait.

THE COURT: Good afternoon to you as well.

Are you Ms. Gauli-Rufo

MS. GAULI-RUFO: Yes, your Honor.

Good afternoon. Lorraine Gauli-Rufo, CJA counsel.

THE COURT: Good afternoon. Thank you for being here.

Let me begin by introducing myself. I am Jesse Furman. I am a United States district judge here in this district. Mr. Chait, I have been assigned to your case, which means that I will preside over this case up to and including trial, if it were to go to trial; and, if the case were to go that far, I would be the judge who would sentence you as well.

Before I proceed, the main purpose of today's proceeding is to arraign you on the indictment and to set a schedule going forward, but I understand there are some issues

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1 here pertaining to your representation.

2 So does somebody want to fill me in on what the story  
3 is there.

4 MS. BLANCO: Yes, your Honor.

5 So, we have spoken to the defendant, and he has  
6 represented that he would be comfortable with a CJA  
7 appointment. He's no longer in a condition to secure private  
8 counsel in this matter.

9 THE COURT: You were retained, is that correct?

10 MS. BLANCO: We were previously retained. This case  
11 has sort a long preindictment history, so we were retained  
12 during that period of time.

13 THE COURT: Has Mr. Chait completed an affidavit with  
14 respect to his financial condition?

15 MS. BLANCO: I am not aware -- I do not believe so,  
16 your Honor.

17 THE COURT: My deputy has printed one of those out.

18 Why don't we have him do that so I can make a  
19 determination whether he is eligible for appointed counsel, and  
20 then we can go from there.

21 MS. GAULI-RUFO: Thank you, your Honor. May I bring  
22 it up?

23 THE COURT: You may.

24 MS. GAULI-RUFO: Thank you.

25 THE COURT: All right. Ms. Blanco, since you are

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1 currently counsel, this indicates that Mr. Chait has virtually  
2 no assets.

3 Is that a fair statement?

4 MS. BLANCO: That's correct, your Honor. Virtually no  
5 assets because he is employed and has been employed in the  
6 family business. So, because of that, the business has not  
7 been doing well for sometime now, and so for that reason he  
8 doesn't really have a salary, a set salary. It's been  
9 virtually zero for the past several months to a year, over a  
10 year.

11 THE COURT: All right. I think in light of that he  
12 certainly qualifies for appointed counsel. I will sign the  
13 affidavit and appoint Ms. Gauli-Rufo as counsel and in light of  
14 that allow Ms. Blanco and her firm to withdraw.

15 I assume you have some files pertaining to the case?

16 MS. BLANCO: We do, your Honor.

17 THE COURT: I would ask, my parting direction in  
18 allowing you to get out is that you immediately transfer those  
19 to Ms. Gauli-Rufo and provide her with any assistance that she  
20 needs to get up to speed and take over representation of  
21 Mr. Chait.

22 All right?

23 MS. BLANCO: That is no problem, your Honor.

24 THE COURT: You are welcome to remain if you like, but  
25 you are also welcome to excuse yourself if you would like.

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1 MS. BLANCO: I will remain.

2 THE COURT: All right.

3 Ms. Hanft, let me turn to you first. Am I correct  
4 there are 69 days left on the speedy trial clock?

5 MS. HANFT: That is correct, your Honor.

6 THE COURT: Second, I have read the indictment. I  
7 should say, given the date span of the alleged crime here,  
8 that, as counsel may know, I was an assistant United States  
9 Attorney in this district until the spring of 2012, when I was  
10 appointed to the bench.

11 Given the dates of the alleged conspiracy here, I  
12 wanted to confirm, I have no reason to believe that I was  
13 involved in this case or any investigation of this case in any  
14 way, shape, or form, but I want to confirm with you, Ms. Hanft  
15 and you, Mr. Udell, to make sure you don't have any reason to  
16 think otherwise yourselves.

17 MS. HANFT: I don't believe so, your Honor, but if you  
18 don't mind giving me one moment to confer with Mr. Udell.

19 THE COURT: All right.

20 MS. HANFT: Your Honor, although the investigation has  
21 spanned a long period, it didn't come to the Southern District  
22 until the summer of 2015, so I don't believe your Honor was  
23 with the U.S. Attorney's Office at that point.

24 THE COURT: I definitely was not. Also, I think  
25 probably would have remembered this case given it is unusual,

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1 and it is not every case that involves the facts alleged here.  
2 So I think it's fair to say that I would remember it if I had  
3 any involvement in it.

4 Ms. Gauli-Rufo, I think in light of that there's no  
5 basis or reason for me to recuse myself from this matter, but  
6 if you have any reason to think otherwise, you can file a  
7 motion on that score within two weeks of today. I will set a  
8 deadline for any other motions, but any such motion of that  
9 nature should be filed two weeks from today.

10 All right?

11 MS. GAULI-RUFO: Thank you, your Honor. Yes.

12 THE COURT: All right.

13 Back to you, Ms. Hanft. Let me ask you, or Mr. Udell  
14 if that would make more sense, to give me a little bit of  
15 background about the nature of the charge and the nature and  
16 the status of discovery.

17 MS. HANFT: Well, your Honor, the indictment alleges  
18 the defendant with engaging in a conspiracy. Here he was  
19 involved in the management of an auction house, and the  
20 indictment alleges that he conspired to violate the Lacey Act,  
21 two particular provisions, the false labeling provision and the  
22 trafficking provision and to smuggle. So, the investigation,  
23 as defense counsel alluded to, there was an extensive  
24 preindictment investigation. It includes execution of a search  
25 warrant at the auction house where the defendant was employed.

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1 The discovery is, as your Honor can imagine, fairly voluminous.  
2 For that reason we would request approximately one month to  
3 produce discovery.

4 THE COURT: All right. Can you describe for me a  
5 little bit more what the nature of the discovery is.

6 MS. HANFT: Primarily it's documentary and  
7 photographic evidence, your Honor. But that's the bulk of  
8 discovery in this case, both hard copy and electronically  
9 stored documents.

10 THE COURT: Did the defendant make any postarrest  
11 statements?

12 MS. HANFT: There are no postarrest statements at  
13 issue, your Honor. The only statements relevant here are a  
14 recording of the defendant from a prior investigation in which  
15 he was not a target. I front the issue for the Court just to  
16 let the Court know there is such a recording.

17 THE COURT: All right. Thank you.

18 So, before we get into the schedule, let me proceed to  
19 the arraignment of Mr. Chait.

20 Mr. Chait, would you please rise.

21 Have you seen a copy of the indictment 17 Cr. 105  
22 charging you with one count of conspiracy in violation of Title  
23 18, United States Code, Section 371?

24 THE DEFENDANT: Yes, your Honor, I have.

25 THE COURT: And have you discussed it with counsel,

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1 presumably your outgoing counsel, not Ms. Gauli-Rufo, but have  
2 you discussed it with counsel?

3 THE DEFENDANT: Yes. Correct, your Honor.

4 THE COURT: Would you like me to read it out loud, or  
5 do you waive its public reading?

6 THE DEFENDANT: I waive its public reading.

7 THE COURT: How do you plead at this time?

8 Guilty or not guilty?

9 THE DEFENDANT: Guilty, your Honor.

10 THE COURT: Thank you. You may be seated.

11 So I will give the government one month from today to  
12 complete discovery of whatever Rule 16 materials it has in its  
13 possession with the understanding, Ms. Hanft, that you should  
14 do so on a rolling basis, which is to say don't wait until  
15 March 27 to complete discovery or to provide all discovery but  
16 over the course of the next four weeks -- you picked a short  
17 month to ask for the month. You should produce discovery on a  
18 rolling basis.

19 Ms. Gauli-Rufo, let me turn to you. I don't think you  
20 have had the pleasure of appearing before me, but my practice  
21 is to set a deadline for the filing of any defense motions, and  
22 then have you all come back for a pretrial conference shortly  
23 after any such motion would be fully briefed.

24 So, I recognize that you are a bit new to this. I  
25 don't know if you have even had a chance to review the



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1 indictment or understand or know the scope of the charge here,  
2 but my question to you is how much time you would need to  
3 prepare any motions before filing?

4 MS. GAULI-RUFO: Thank you, your Honor.

5 I have briefly reviewed the indictment and spoken with  
6 my client's prior counsel a little bit today. But just hearing  
7 from the U.S. Attorney that the discovery is voluminous and she  
8 should have it to us within a month, again, I would ask for at  
9 least a month to file motions, again, only because I'm coming  
10 into this case new, and I'm sure there's a lot of preindictment  
11 material that I'm going to get from his previous counsel as  
12 well.

13 So, if I could have a month, a date in April, your  
14 Honor, preferably late April. The only reason I say that to  
15 your Honor is I do have a trial starting on March 20 before  
16 Judge Rakoff, it should be a week or two week trial, but I  
17 don't anticipate that preventing me from getting motions filed  
18 by the end of April.

19 THE COURT: All right.

20 I will, in light of that, set a deadline for the  
21 filing of any defense motions, that is, other than the category  
22 of motion that I mentioned earlier, by April 28. Any  
23 opposition would be due by May 12, and any reply would be due  
24 by May 19.

25 As I said, I will have you back shortly after any such

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1 motion would be fully briefed. Let me give you a date for  
2 that.

3 I will have you back on May 25 at 4 p.m. You should  
4 be prepared to address any motions that are filed. If they're  
5 the kind of motion that I could address from the bench, I may  
6 well do so. If there is a need for a hearing, I will either  
7 have scheduled it by that conference or we will schedule it at  
8 that conference.

9 In either case, whether a motion is filed or not, I  
10 will be setting a trial date at that May 25 conference, so you  
11 should discuss with one another in advance of the conference  
12 how long a trial would likely take and when you would want a  
13 trial to be scheduled.

14 I'm happy to accommodate your interests in that regard  
15 if I can, if your interests are reasonable, but I will be  
16 setting a trial date, and everybody knows when I set a trial  
17 date, it is, as far as I am concerned, a firm date. So you  
18 should prepare accordingly and talk to one another in advance  
19 of that conference.

20 Is there an application with respect to the speedy  
21 trial clock?

22 MS. HANFT: Yes, your Honor.

23 The government moves to exclude time in the interest  
24 of justice until May 25 for the production and review of  
25 discovery and for the parties to engage in discussions

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1 regarding a potential resolution of this matter.

2 THE COURT: Any objection?

3 MS. GAULI-RUFO: No objection, your Honor.

4 THE COURT: I will exclude time under the Speedy Trial  
5 Act between today and May 25, 2017. I find that the ends of  
6 justice served by excluding that time outweigh the interests of  
7 the defendant and the public in a speedy trial to allow the  
8 government to produce discovery, and, most importantly, to  
9 allow the defendant, with the assistance of counsel, to review  
10 that discovery, to determine if there are any motions to be  
11 filed and to prepare those motions.

12 Anything else, Ms. Hanft?

13 MS. HANFT: Not from the government, your Honor.

14 THE COURT: Ms. Gauli-Rufo.

15 MS. GAULI-RUFO: Not from the defendant, your Honor.

16 THE COURT: In that case we are adjourned.

17 Thank you very much.

18 MS. GAULI-RUFO: Thank you, your Honor.

19 (Adjourned)  
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